

ORDINANCE NO. BL2019-1633

An ordinance amending Chapters 17.08 and 17.16 of the Metropolitan Code of Laws regarding "Short term rental property – Owner-Occupied" and "Short term rental property – Not Owner-Occupied" (Proposal No. 2019Z-011TX-001).

NOW, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That section 17.08.030 (District land use tables) of the Metropolitan Code of Laws is hereby amended by providing, under Commercial Uses, "Short term rental property (STRP) – Not Owner-Occupied" as a use permitted with conditions (PC) in MUN and MUN-A, MUL and MUL-A, MUG and MUG-A, MUI and MUI-A, OG, OR20 through OR40-A, ORI and ORI-A, CN and CN-A, CL and CL-A, CS and CS-A, CA, CF, DTC North, DTC South, DTC-West, DTC Central, SCN, SCC and SCR.

Section 5. That Section 17.16.070 of the Metropolitan Code is hereby amended by deleting Subsection U.2.b.iv in its entirety and substituting therefore the following:

- iv. A statement that the applicant has confirmed that operating the proposed STRP would not violate any home owners association agreement or bylaws, condominium agreement, co-op agreement, lease agreement, covenants, easements, codes and restrictions or any other agreement governing and limiting the use of the proposed STRP property.
- v. Proof of payment of all taxes due, including property taxes and, for permit renewals, all applicable room, occupancy, and sales taxes required by state law or the Metropolitan Code.

Section 6. That Section 17.16.070 of the Metropolitan Code is hereby further amended by deleting Subsection U.4.l.i and U.4.l.ii in their entirety and substituting therefore the following:

- I. Denial or Revocation of Permit.
 - i. Upon the filing of a complaint regarding a STRP permit, the department of codes administration shall notify the permit holder in writing or by e-mail of such complaint. All complainants shall be notified that any false complaint made against a short-term rental unit provider are punishable as perjury under Tenn. Code Ann. §39-16-702.
 - ii. If the zoning administrator determines, based on reasonably reliable information that the zoning administrator has obtained including without limitation public records or reports, records of regularly conducted activity, or a direct or online statement against a person's own interest, that three (3) violations of generally applicable provisions of the Metropolitan Code of Laws have occurred as a direct result of the operation of the short-term rental unit, the permit to operate a STRP may be revoked if no appeal rights remain.

Section 6. That Section 17.16.070 of the Metropolitan Code is hereby further amended by deleting Subsection U.4.l.vi(2) in its entirety and substituting therefore the following:

- (2) Upon a finding by the board of zoning appeals that a short term rental property has operated without a permit, there shall be a waiting period of up to one year

from the date of such finding for the property to become eligible for a STRP permit, as determined by the BZA. The length of the waiting period shall be based upon whether the operator was aware or unaware of the requirement that the STRP have a permit. Evidence to be evaluated in making this decision may include but is not limited to:

- (a) the testimony of the STRP operator;
- (b) the testimony of neighbors or others with knowledge of the STRP operation;
- (c) evidence that the operator was informed of the requirement and disregarded this information;
- (d) evidence that the operator had looked into requirements and misunderstood them;
- (e) prior or repeat offenses by the operator under this section; and
- (f) whether the operator, upon being informed of the requirement, obtained or attempted to obtain a permit before renting the STRP again.

Section 2. That Section 17.16.250 of the Metropolitan Code is hereby amended by deleting subsection E.2.b.v in its entirety and substituting in lieu thereof the following:

- v. A statement that the applicant has confirmed that operating the proposed STRP would not violate any home owners association agreement or bylaws, condominium agreement, co-op agreement, lease agreement, covenants, easements, codes and restrictions or any other agreement governing and limiting the use of the proposed STRP property.

Section 3. That Section 17.16.250 of the Metropolitan Code is hereby further amended by deleting subsections E.4.l.i and E.4.l.ii in their entirety and substituting in lieu thereof the following:

- I. Denial or Revocation of Permit.
 - i. Upon the filing of a complaint regarding a STRP permit, the department of codes administration shall notify the permit holder in writing or by e-mail of such complaint. All complainants shall be notified that any false complaint made against a short-term rental unit provider are punishable as perjury under Tenn. Code Ann. §39-16-702.
 - ii. If the zoning administrator determines, based on reasonably reliable information that the zoning administrator has obtained including without limitation public records or reports, records of regularly conducted activity, or a direct or online statement against a person's own interest, that three (3) violations of generally applicable provisions of the Metropolitan Code of Laws have occurred as a direct result of the operation of the short-term rental unit, the permit to operate a STRP may be revoked if no appeal rights remain.

Section 4. That Section 17.16.250 of the Metropolitan Code is hereby further amended by deleting subsections E.4.l.vi.(2) in its entirety and substituting in lieu thereof the following:

- (2) Upon a finding by the board of zoning appeals that a short term rental property has operated without a permit, there shall be a waiting period of up to one year from the date of such finding for the property to become eligible for a STRP permit, as determined by the BZA. The length of the waiting period shall be based upon whether the operator was aware or unaware of the requirement that the STRP have a permit. Evidence to be evaluated in making this decision may include but is not limited to:

- (a) The testimony of the STRP operator;
- (b) The testimony of neighbors or others with knowledge of the STRP operation;
- (c) Evidence that the operator was informed of the requirement and disregarded this information;
- (d) Evidence that the operator had looked into requirements and misunderstood them;
- (e) Prior or repeat offenses by the operator under this section; and
- (f) Whether the operator, upon being informed of the requirement, obtained or attempted to obtain a permit before renting the STRP again.

Section 8. Notwithstanding the foregoing, the Accessory Use restrictions and Commercial Use restrictions under Section 17.08.030 of the Metropolitan Code (District land use tables), as amended herein, shall not apply to property used as a short-term rental property by the owner of the property prior to the enactment of Ordinance no. BL2017-608. Such exemption shall apply until such property is sold, transferred, ceases being used as a short-term rental unit for a period of thirty (30) continuous months, or has been in violation of generally applicable provisions of the Metropolitan Code of Laws three (3) or more separate times with no remaining right of appeal.

Section 9. The Metropolitan Clerk is directed to send a copy of this Ordinance to the Zoning Administrator for the Metropolitan Department of Codes Administration.

Section 10. This Ordinance shall take effect October 1, 2019, and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Burkley Allen
Member of Council